

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

Brookland South Campus, LLC,

and

Bozzuto Development Company,

Respondents

Property Location:

Lawrence Street and 7th Street NE
Washington, DC 20017

**ADMINISTRATIVE ORDER FOR
COMPLIANCE ON CONSENT**

Docket No. CWA-03-2016-0053DN

I. STATUTORY AND REGULATORY AUTHORITY

1. This Administrative Order for Compliance on Consent ("AOCC" or "Order") is issued pursuant to the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") pursuant to Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a). The Administrator has delegated this authority to the Regional Administrator of EPA Region III who in turn has delegated it to the Director of the Water Protection Division.

**II. FINDINGS OF FACT, JURISDICTIONAL ALLEGATIONS, AND
CONCLUSIONS OF LAW**

2. Complainant issued an Administrative Penalty Complaint and Notice of Opportunity to Request Hearing to Brookland South Campus, LLC and Bozzuto Development Company (together, "Respondents") on July 23, 2015, docket number CWA-03-2015-0045 ("the Complaint").
3. This AOCC incorporates by reference the findings of fact, jurisdictional allegations, and conclusions of law contained in Paragraphs 1 through 105 of the Complaint, and adopts them as EPA's findings of fact, jurisdictional allegations, and conclusions of law herein.

4. EPA concludes that Respondents have violated Section 301 of the CWA, 33 U.S.C. § 1311.

III. COMPLIANCE ORDER

Therefore, this _____ day of _____, 2016, Respondents are hereby ORDERED, pursuant to Section 309(a) of the CWA, 33 U.S.C. § 1319(a), to do the following:

5. Provide copies of all compliance inspection reports for the two months following execution of this AOCC.
6. Provide a copy of a Stormwater Pollution Prevention Plan that has been revised as follows:
 - a. Clearly stating either the location of a rain gauge on site or the address of the weather station used to obtain rainfall data; and
 - b. Stating the inspection schedule required by Part 4.1.3 of the Permit.
7. Provide a photograph or copy of a photograph showing that the signage required by the Permit has been posted.
8. Respondents' failure to complete or comply with any requirement of this AOCC shall be deemed a violation of this Order.
9. All notices and submissions required under this Order shall be sent either via first-class mail or electronically to:

Rebecca Crane
Environmental Scientist
U.S. Environmental Protection Agency, Region III
1650 Arch Street (3WP42)
Philadelphia, Pennsylvania 19103-2029
crane.rebecca@epa.gov

10. All submissions provided pursuant to this Order shall be accompanied by a certification signed by Respondents pursuant to 40 C.F.R. section 122.22 that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

IV. GENERAL PROVISIONS

11. For the purpose of this proceeding:
- a. Respondents admit to the jurisdictional allegations of the Complaint and this AOCC;
 - b. Respondents neither admit nor deny the specific factual allegations and conclusions of law set forth in the Complaint and incorporated into this AOCC;
 - c. Respondents agree to undertake all actions required by this AOCC and consent to issuance of this AOCC without adjudication; and
 - d. Respondents agree not to contest Complainant's jurisdiction to issue and enforce the terms of this AOCC.
12. Each party to this agreement shall pay its own costs and attorney's fees.
13. Respondents waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that they may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706, providing for judicial review of final agency action.
14. This AOCC addresses only the violations described herein. EPA reserves the right to commence action against any person, including Respondents, in response to any condition not described herein that EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment.

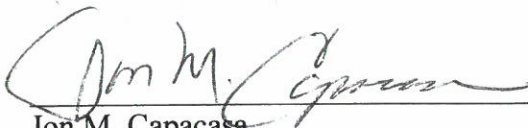
15. This Order does not constitute a waiver or modification of the terms or conditions of any NPDES permit. Compliance with the terms and conditions of this Order does not relieve Respondents of their obligations to comply with any applicable federal, state, or local law or regulation.
16. EPA reserves any rights and remedies available to it under the CWA, 33 U.S.C. §§ 301 *et seq.*, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Order.
17. This AOCC may be executed in any number of counterpart originals, each of which shall be deemed to constitute an original agreement, and all of which together shall constitute one agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts.
18. All of the terms and conditions of this AOCC together comprise one agreement. In the event that this AOCC or one or more of its terms and conditions is held invalid, is not executed by all signatories in identical form, or is not approved in such identical form by the Regional Administrator or his designee, the entire AOCC shall be null and void.
19. The provisions of this AOCC shall be binding upon the Respondents, their officers, principals, directors, successors, and assigns.
20. The undersigned representatives of Respondents certify that he or she is fully authorized by the party represented to enter into the terms and conditions of this AOCC and to execute and legally bind that party to it.

V. EFFECTIVE DATE AND TERMINATION

21. This Order will become effective upon Respondents' receipt of a fully-executed copy of this Order unless modified or withdrawn.
22. This Order shall terminate upon provision of the documents required in Paragraphs 5 through 7 or the filing by Respondents of a Notice of Termination of permit coverage for the Monroe Street Markets Site, whichever occurs first.

SO ORDERED:

Date: 2/2/16


Jon M. Capacasa
Director, Water Protection Division
U.S. EPA Region III

AGREED TO:

FOR RESPONDENT, BROOKLAND SOUTH CAMPUS, LLC:

By: 

~~AN~~ Name: Steven A. Strazzella

Title: EVP

Date: 2/17/16

FOR RESPONDENT, BOZZUTO DEVELOPMENT COMPANY:

By: 

Name: Michael T. Henahan

Title: Vice President

Date: 2/17/16

CERTIFICATE OF SERVICE

I hereby certify that I sent a true and correct copy of the Administrative Order for Compliance on Consent to the following persons via certified mail, return receipt requested, at the addresses listed below after filing the original with the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103.

Mr. Michael Henehan, Principal
Brookland South Campus, LLC
6406 Ivy Lane, Suite 700
Greenbelt, MD 20770

Steve Strazzella, President
Bozzuto Development Company
6406 Ivy Lane, Suite 700
Greenbelt, MD 20770

Date: _____

Kelly Gable
Assistant Regional Counsel
U.S. EPA, Region III